Subject: CPRA Determination Letter to adrian - 8.21.20
From: Mark Smith <n3145@lapd.online>
Date: 8/21/20, 9:36 AM
To: [redacted]

Dear [redacted]

The Office of the Inspector General (OIG) has reviewed your requests for records pursuant to the California Public Records Act (Cal. Govt. Code §§6250, *et seq*., hereafter "CPRA" or the "Act"), which we received on July 29, 2020. Your requests seek the following categories of records for the time period 2019 and 2020: (i) daily calendars of the Inspector General; (ii) emails between OIG staff and any email address at lapd.com; (iii) emails between OIG staff and any email address at lappl.org; and (iv) emails between OIG staff and anyone representing LAPPL (Los Angeles Police Protective League).

The OIG is cognizant of its responsibilities under the Act. It recognizes the statutory scheme was enacted in order to maximize citizen access to the workings of government. The Act does not mandate disclosure of all documents within the government's possession. Rather, by specific exemption and reference to other statutes, the Act recognizes that there are boundaries where the public's right to access must be balanced against such weighty considerations as the right of privacy, a right of constitutional dimension under California Constitution, Article 1, Section 1. The law also exempts from disclosure records that are privileged or confidential or otherwise exempt under either express provisions of the Act or pursuant to applicable federal or state law, per California Government Code Sections 6254(b); 6254(c); 6254(f); 6254(k); and 6255. The OIG has conducted an inquiry and search for responsive records and responds as follows.

With respect to the portion of your request seeking all of the daily calendars of the Inspector General for all of 2019 and 2020, the OIG determines that your request seeks records that are exempt from disclosure under Government Code Section 6255, which exempts records that reveal the mental processes and impressions of government officials and are therefore protected by the deliberative process privilege. See *Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1343-44 (1991) (explaining that disclosure of a government official's calendars would be "the functional equivalent of revealing" the official's "judgment and mental processes" and holding that "[t]he intrusion into the deliberative process is patent"); *Rogers v. Superior Court*, 19 Cal.App.4th 469, 480-81 (1991) (holding same, as to phone records). The OIG further determines that this portion of your request seeks records exempt from disclosure under the "public interest" exemption of Section 6255, which provides an exemption where, as here, responding to a broad and unfocused request would be unduly burdensome for the agency, such that the public interest in withholding clearly outweighs any public interest in disclosure. *See Times Mirror Co.*, 53 Cal.3d at 1344-46 (authorizing the wholesale withholding of government official's calendars for a five-year period, especially given the broad scope and nonspecific and unfocused nature of the request); *id.* at 1345 (finding that any public interest in disclosure "is simply crushed under the massive weight" of the request for the wholesale production of calendars); *Rogers v. Superior Court*, 19 Cal.App.4th at 480-81 (upholding withholding of material in light of "the nonspecific and unfocused nature of the request" and noting that the one-year time frame of the request at issue was not "conceptually different than the five-year period involved in *Times Mirror Co.*"). Additionally, the OIG denies this portion of your request on the

ground and to the extent that it seeks personal information protected from disclosure under the exemptions of Government Code Section 6254(c); information protected by the attorney-client privilege under Government Code Section 6254(k) / Evidence Code Section 954, and official information protected under Government Code Section 6254(k) / Evidence Code Section 1040.

Please note that by letter dated August 6, 2020, the OIG had requested that you narrow this portion of your request and make a more specific and focused request – including by identifying specific dates you are interested in and/or specifying the subject matter of calendar entries you seek. However, you declined or were unwilling to do so. Nevertheless, it appears from the other categories of your request that you are interested in the OIG's contacts with LAPPL and LAPPL representatives. Therefore, in an effort to assist you and be transparent, the OIG offers to provide you with calendar entries of the Inspector General showing any contacts with LAPPL in 2019 and 2020. If you are interested in having the OIG conduct a search for and provide any such records, please let us know.

With respect to the portions of your request seeking emails from 2019 and 2020 between OIG staff members (on the one hand) and any email address at lapd.com, any email address at lappl.org, and/or anyone representing LAPPL (on the other hand), the OIG determines that your request seeks copies of disclosable public records, and will provide you with responsive records in its possession. Please note that such records may be redacted to the extent necessary to protect any information contained therein that is exempt from disclosure under the CPRA, including under Government Code Sections 6254(b), 6254(c), and 6254(k). The OIG currently estimates it can provide you with copies of such records by September 7, 2020.

If you have any questions regarding this correspondence, please contact the OIG at (213) 893-6400.

Very truly yours,
BOARD OF POLICE COMMISSIONERS

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Attachments:

CPRA Determination Letter to [redacted].21.20.pdf 27 bytes